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Fifty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1416th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 10 August 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1416/Add.1.

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GE.00-43916 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the initial, second, third and fourth periodic reports of Slovenia (CERD/C/57/Misc.16/Rev.2)

1. Mr. RECHETOV (Country Rapporteur) said that the draft concluding observations (CERD/C/57/Misc.16/Rev.2) incorporated changes recommended by some Committee members. More recently proposed amendments would be introduced during the consideration of the draft.

Paragraphs 1 to 3

2. Paragraphs 1 to 3 were adopted.

Paragraph 4

3. The CHAIRMAN noted the inconsistency between "Ombudsman" and "Ombudsperson". As the official title, the former term should be used.

4. Mr. RECHETOV (Country Rapporteur) explained in reply to a question by Mr. ABOUL-NASR that it was the Office of the Human Rights Ombudsman that could start proceedings on its own initiative. He would prefer the word "start" to "initiate".

5. Mr. PILLAI suggested replacing the phrase "on its own initiative" with "suo moto", which meant "on its own".

6. Mr. SHAHI added that "suo moto" was a legal phrase widely used throughout South Asia.

7. Mr. RECHETOV (Country Rapporteur) said that the use of such an expression, albeit common in legal circles in certain parts of the world, would perhaps not be appropriate in a document that would be read by lawyers elsewhere and, it was to be hoped, by the general public. Perhaps a more readily understandable phrase could be found.

8. Mr. BRYDE suggested the wording "may by law start proceedings ex officio".

9. Paragraph 4, as amended, was adopted.

Paragraph 5

10. Mr. ABOUL-NASR said that the wording of the paragraph would appear to indicate that the issue of citizenship had been conclusively resolved. Was that the case?

11. Mr. RECHETOV (Country Rapporteur) said that the issue had not been completely resolved, as would be seen when the discussion turned to paragraph 8. However, the Government had taken some very important measures to tackle the problem, notwithstanding the opposition of extremist groups.

12. Paragraph 5 was adopted.

Paragraph 6

13. Paragraph 6 was adopted.

Paragraph 7

14. Mr. ABOU'L-NASR suggested that the first sentence might be recast to avoid the repetition of the word "domestic" three times.

15. Mr. RECHETOV (Country Rapporteur) proposed that the second part of the sentence should be reformulated to read "especially regarding cases of conflicts with national legislation and the possibility of invoking provisions of the Convention in court".

16. Mr. FALL suggested that the second sentence should begin with the phrase "In this connection,".

17. Paragraph 7, as amended, was adopted.

Paragraph 8

18. Mr. RECHETOV (Country Rapporteur) said that the wording of the first sentence up to the words "access to the media" was apparently clumsy, and that Ms. January-Bardill had therefore suggested that it should be replaced by "The Committee notes with concern that there are discrepancies in the manner in which the law protects the different minority groups, and in particular their access ...". In his view, the modification would not greatly alter the substance of the paragraph.

19. Mr. BRYDE said he was not in favour of changing the wording. The position of minorities in Slovenia was evolving. While the situation of the Italian and Hungarian minorities currently differed from that of the Croats, for example, such might not be the case in the future. The Committee should invite the State party to consider extending to all groups the same protection as that afforded to the Italian and Hungarian communities.

20. Mr. BOSSUYT agreed with Mr. Bryde. There was no sense in opening a debate about the various categories of minorities. The fact that Slovenian citizenship had been granted to persons of various backgrounds did not automatically entitle those groups to the rights granted to long-established minorities such as the Italian and Hungarian communities. While each individual was entitled to the same human rights as all others, the same rules did not apply to each minority group. The Committee should not go so far as to express its concern explicitly on that point.

21. Mr. ABOUL-NASR said that the final sentence appeared to be worded very strongly, giving the impression that the State party had done nothing to eliminate racial discrimination. If it was the Committee's intention to call for the equal treatment of all minorities, it should say so more clearly. Furthermore, during the discussion of its report the delegation had furnished information on the rights of minority groups. Its replies to the Committee's questions should be reflected in the concluding observations.

22. Mr. RECHETOV (Country Rapporteur) proposed that the first sentence of the paragraph should remain unchanged, as it would serve no purpose to reopen a debate on that question. He concurred with Mr. Aboul-Nasr that the wording of the final sentence was excessively strong. While he would accept the majority view, he felt it would be best to delete the sentence.

23. Mr. DIACONU said that the paragraph would be meaningless without the last sentence. The number of ethnic groups and the way they were treated were secondary to the main point, which was that the Convention should be implemented. If certain practices led to discrimination against some groups, the discrimination was the problem that must be addressed. Instead of deleting the final sentence, a solution might be to add the words "in compliance with article 2 of the Convention" at the end.

24. Mr. BOSSUYT said he considered the final sentence to be too general, insofar as it would apply to all States and might be misconstrued as meaning that the Committee considered the problem to be particularly acute in Slovenia. It might therefore be deleted. However, if it was maintained, it should be quite clear that the sentence in no way implied that there was a situation of racial discrimination simply by virtue of the fact that the Italian and Hungarian minorities benefited from a status not extended to other groups.

25. Ms. ZOU Dec, supported by Mr. FALL, agreed that the deletion of the final sentence would render the paragraph meaningless. The sentence, which was excessively general and sent too strong a message, should instead be recast to read: "The Committee recommends that the State party should take all necessary measures to give equal protection and treatment to all minority groups".

26. Mr. RECHETOV (Country Rapporteur) said that any reference to equal protection was not workable, given the special protection afforded to the Italian and Hungarian minorities, notably on the basis of specific intergovernmental agreements. In addition, the Committee had conducted a meaningful dialogue with the State party during the presentation of its initial report. If the situation had not changed when its subsequent periodic report was submitted, the Committee could make a reference to racial discrimination. In relation to the first report, however, the Committee should stress only its major concerns. None of the suggested formulations was appropriate and, if more plausible wording could not be found, the second sentence should be deleted.

27. Mr. DIACONU proposed the following amended wording: " In this connection, the Committee recommends that the State party, in accordance with article 2 of the Convention, ensure that persons or groups of persons belonging to other minority groups are not discriminated against".

28. The CHAIRMAN suggested the term "minorities" rather than "minority groups".

29. Paragraph 8, as amended, was adopted.

Paragraph 9

30. Mr. RECHETOV (Country Rapporteur) suggested that in the penultimate line of the paragraph the phrase "encourage them to use" should be replaced by "encourage the use of". The comma in the ninth line of the paragraph between the words "report" and "relevant" should be deleted.

31. Paragraph 9, as amended, was adopted.

Paragraph 10

32. Paragraph 10 was adopted.

Paragraph 11

33. Mr. DIACONU said that, in order to make more specific reference to the Convention, the phrase "against racial discrimination" should be added at the end of the first sentence. The guarantee to be provided by the State party should relate only to such discrimination.

34. Mr. BRYDE agreed that the statement should make closer reference to the Convention but recalled that during the discussion problems affecting refugees other than strictly racial discrimination had been highlighted. That being the case, the first sentence of paragraph 11 might usefully be deleted.

35. Mr. DE GOUTTES, said that the text could either remain as it was or the phrase "in particular those covered by the Convention" could be added to the end of the first sentence.

36. Mr. DIACONU said that Mr. de Gouttes' proposal was acceptable.

37. Mr. BRYDE said that the proposal still failed to reflect the discussion, indeed to an even greater extent. The first sentence could be left as it was and the second sentence reworded to read: "The Committee recommends that the State party review its policy on temporary protection of refugees in order to guarantee all their rights, especially those envisaged in the Convention, and facilitate their integration in Slovenian society".

38. Paragraph 11, as amended, was adopted.

Paragraphs 12 to 14

39. Paragraphs 12 to 14 were adopted.

Paragraph 15

40. The CHAIRMAN suggested that the words "updated report" should be changed to "updating report", in line with the usual formulation.

41. Paragraph 15, as amended, was adopted.

42. The draft concluding observations concerning the initial, second, third and fourth periodic reports of Slovenia as a whole, as amended, were adopted.

Daft concluding observations concerning the thirteenth and fourteenth periodic reports of Mauritius (CERD/C/57/Misc.13/Rev.2, future CERD/C/.../Add...)

43. Mr. FALL (Country Rapporteur), introducing the draft concluding observations, said that the draft incorporated amendments suggested by other Committee members. It had been produced in French and an unofficial translation was available in English. The only remaining change to the document under consideration was the removal of the word "indirect" from the penultimate line of paragraph 8.

Paragraph 1

44. Paragraph 1 was adopted.

Paragraph 2

45. Mr. ABOUL-NASR proposed that the phrase "and full" should be deleted before "report", given that more information was later requested from the State party.

46. Paragraph 2, as amended, was adopted.

Paragraph 3

47. The CHAIRMAN said that reference to a high-ranking delegation should, except in the case of States represented by a single person, be made whenever relevant in the Committee's concluding observations since it would serve as an encouragement to States parties.

48. Paragraph 3, as amended, was adopted.

Paragraph 4

49. Mr. BOSSUYT suggested that the phrase "very particular nature" could be replaced by "great variety in the composition of the population" in the first sentence.

50. Mr. FALL (Country Rapporteur) said that he had no difficulty in accepting the proposed amendment and that the term "multicultural" or "multi-ethnic" could perhaps be added.

51. The CHAIRMAN said that "notes" could replace "recalls" at the beginning of the paragraph.

52. Mr. BOSSUYT pointed out that reference had been made to Finland as a multi-ethnic country. Given that the population of Mauritius was much more varied, it might be more appropriate to state: "The Committee notes the particularly great variety in the composition of the population of Mauritius ...".

53. Ms. JANUARY-BARDILL, supported by Mr. de GOUTTES, suggested the phrase "... notes the great diversity of the population of Mauritius".

54. Paragraph 4, as amended, was adopted.

Paragraph 5

55. Mr. ABOUL-NASR said that the verb "acquired" in the second line was inappropriate when referring to institutions and should be replaced by "established".

56. The CHAIRMAN said that the phrase "since its last observations" was too vague and should be changed to: "... since the consideration of its last periodic report".

57. Mr. FALL (Country Rapporteur) said, in reply to Mr. Aboul Nasr, that the verb used in the French version was correct, although either of the terms "établi" or "créé" would also be appropriate.

58. Paragraph 5, as amended, was adopted.

Paragraph 6

59. The CHAIRMAN, supported by Mr. FALL (Country Rapporteur), proposed that the phrase "the announcement of" should be deleted from the first line, since the emphasis should be on the adoption of the Act in question.

60. Mr. RECHETOV said that the amendment was acceptable provided that a clear reference to articles 4 and 5 of the Convention was retained.

61. Mr. FALL (Country Rapporteur) confirmed that reference had been made in the core document of Mauritius and in the delegations's discussions with the Committee to the two articles in question, in relation to the Equal Opportunities Act and the Public Security Act respectively.

62. Paragraph 6, as amended, was adopted.

Paragraph 7

63. Mr. RECHETOV proposed that the phrase "of any kind" in lines 3 and 4 should be deleted.

64. Paragraph 7, as amended, was adopted.

Paragraph 8

65. Mr. ABOUL-NASR said that, although the Mauritian delegation had provided some information on the riots that had taken place, the current wording of paragraph 8 did not appear to reflect that fact.

66. Mr. BRYDE said that Mauritius had indeed provided information on the rioting but had been unable to make known the results of the inquiry conducted subsequently. The paragraph could perhaps be rephrased to the effect that the Committee regretted that the State party had not provided it with more information.

67. Mr. FALL (Country Rapporteur) confirmed that in its written responses Mauritius had stated that the causes of the 1999 riots had been investigated by a commission of inquiry and that the commission's report been submitted to the President of the Republic but that it was inappropriate at that juncture to make any pronouncements on the causes of the riots.

68. Mr. ABOUL-NASR said that, since the State party had already provided information, the Committee might request it to supply sufficient information rather than regretting the fact that the information provided thus far had been insufficient.

69. The CHAIRMAN said that a request could be made for additional information, thus making it clear that the information received was insufficient.

70. Mr. FALL (Country Rapporteur) said he had no objection to requesting additional information; the fact remained, however, that during the debate and in the written responses the information supplied had been insufficient.

71. The CHAIRMAN pointed out that the second sentence of the paragraph was in fact tantamount to a request for more information.

72. Mr. SHAHI agreed with Mr. Aboul-Nasr and suggested that the first line should be amended to read: "The Committee requests the State party to provide more information ...". He also pointed out that paragraph 8 seemed to contradict the reference to the "harmony" within Mauritian society in paragraph 4.

73. Mr. FALL (Country Rapporteur) said he had no objection to revising the paragraph along the lines suggested by Committee members.

74. Paragraph 8, as amended, was adopted.

Paragraph 9

75. Mr. ABOUL-NASR said that the paragraph should perhaps be redrafted to clarify its meaning.

76. Mr. BRYDE recalled that, during the discussion, Mr. Shahi had already raised objections to such statements concerning personal law and he wondered whether it was appropriate for the Committee to express concern again on that subject.

77. Mr. SHAHI stressed that the question of the application of personal law by certain communities within a society was a sensitive one. The Committee had in the past expressed concern about the use of personal law but only because it had mistakenly believed personal law to be incompatible with some provisions of the relevant international instruments. Such concerns were not valid and he believed that paragraph 9 should be deleted or, failing that, that at least the words "reiterates its concerns and" in lines 2 to 3 should be deleted.

78. Mr. RECHETOV agreed with Mr. Shahi; he did not believe the Committee should contribute to tensions between civilizations. If the paragraph was retained, the words "some members of" should be inserted before "the Committee" in line 2 because he did not believe that most of the members had those concerns.

79. Mr. PILLAI pointed out that the paragraph was in any case included under the chapter heading of "Concerns and recommendations" and there was therefore no need to mention concerns again. He was also prepared to support the deletion of the paragraph.

80. Mr. FALL (Country Rapporteur) said that he had referred to the sensitive issue of personal law because it had been raised in the past by the Committee and had been specifically referred to by the State party in its report (CERD/C/362/Add.2, para. 26). If the Committee so desired, however, he would have no objection to deleting the paragraph.

81. Mr. ABOUL-NASR also recommended that the paragraph should be deleted.

82. Paragraph 9 was deleted.

Paragraph 10

83. Mr. DIACONU said that paragraph 10 did not seem to be related to the provisions of the Convention since it did not concern racial discrimination, and could therefore be deleted.

84. The CHAIRMAN pointed to the relevance of article 1.2 of the Convention to Mr. Diaconu's statement, providing as it did that the Convention did not apply to distinctions between citizens and non-citizens.

85. Mr. FALL (Country Rapporteur) said that the tensions in question had arisen over the position of Mauritians and foreign nationals on the labour market, a subject which the Committee had often raised in the past in the context of other States' parties' reports. The paragraph could be improved by referring to the issue of racial discrimination. He was not sure

that article 1.2 of the Convention was relevant to the issue. He had based the paragraph on reports from the Committee on Economic, Social and Cultural Rights, which had referred to discrimination. It was perhaps especially important for the Committee to make make reference to tensions in the case of Mauritius, which enjoyed a relatively privileged economic situation in comparison to other countries of the region.

86. The CHAIRMAN suggested that the paragraph might be amended to include a recommendation that the State party should adopt measures to avoid or reduce tensions between foreign and Mauritian workers.

87. Mr. SHAHI said that article 1.2 of the Convention could perhaps be invoked but the real question was the level of tension. Unless the situation was extremely serious, there was no violation of the Convention and no need for the Committee to mention it. The paragraph could therefore be deleted, although he would not insist.

88. Mr. RECHETOV said the question was not one of differential treatment. The tensions were clearly of a racial nature and the question was whether they were serious enough to warrant the Committee's concern. If so, the paragraph should be retained.

89. Ms. JANUARY-BARDILL said that the paragraph should refer to measures that the State party was taking to reduce tensions, not the tensions themselves.

90. Mr. ABOUL-NASR agreed that the central issue was measures to reduce tensions and proposed that the Chairman should request a show of hands to ask members whether or not they wished to delete or retain the paragraph as it stood.

91. Mr. DIACONU suggested that the words "related to discrimination on the basis of race, or ethnic or national origin" should be added at the end of the paragraph.

92. The CHAIRMAN said that the amendment would make the paragraph more relevant to the Convention but the question remained whether the tensions were between Mauritians and all foreign workers or only certain groups or whether, for example, Mauritians were simply unhappy that foreign workers were taking jobs away from them.

93. Mr. RECHETOV, speaking on a point of order, recalled that there had been a motion to vote on deletion of the paragraph.

94. The CHAIRMAN invited the Committee to vote on the proposal to delete paragraph 10.

95. The proposal was adopted by 8 votes to 7.

96. Paragraph 10 was deleted.

Paragraph 11

97. Mr. ABOUL-NASR said that the first sentence made too much of the Committee's previous requests for ethnic data. It should not be made compulsory to provide such information, and indeed many States parties did not.

98. Mr. SHAHI said he thought that the third sentence was too detailed, in referring to university enrolment.

99. Mr. RECHETOV suggested deleting the first two sentences and simply having the current third sentence request that data on ethnic composition should be included in the next report.

100. Ms. McDOUGALL suggested that a reference to General Recommendation XXV on gender-related dimensions of racial discrimination, which recommended the use of gender-disaggregated data, as did the amended reporting guidelines, would be in order.

101. Mr. SHAHI concurred with previous speakers, pointing out that some States either had not compiled the necessary demographic data, or preferred, in the interests of national consolidation, not to dwell on them.

102. Mr. de GOUTTES observed that it might be a good idea to include a gender reference and a reference to General Recommendation XXV in similar paragraphs in all concluding observations.

103. Mr. ABOUL-NASR asked how gender was relevant to the provisions of the Convention at issue.

104. Ms. McDOUGALL observed that it did not serve the Committee to reopen the very full debate that had led to the adoption of General Recommendation XXV, which confirmed that the gender-related dimensions of racial discrimination were within the ambit of the Convention and that the Committee was enhancing its practice by taking them into account. She read out paragraph 6 of General Recommendation XXV, which stated, inter alia, that data disaggregated by gender within racial or ethnic groups enabled States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that might otherwise go unnoticed and unaddressed.

105. Mr. FALL (Country Rapporteur) proposed, after consultation with Ms. McDougall, that the first sentence of paragraph 11 should be retained, the second sentence should be deleted, and the third sentence should be amended to read: "The Committee would appreciate that data on ethnic composition and gender breakdown be included in the next report."

106. Paragraph 11, as amended, was adopted.

Paragraphs 12 to 14

107. Paragraphs 12 to 14 were adopted.

108. Mr. RECHETOV suggested that, in future concluding observations, paragraph 14, which dealt with substantive issues, should precede paragraph 13, which dealt with more procedural matters.

109. The CHAIRMAN took note of the suggestion by Mr. Rechetov on the ordering of those paragraphs in future concluding observations.

Paragraph 15

110. Paragraph 15 was adopted.

Paragraph 16

111. Paragraph 16 was adopted, with a minor drafting change.

112. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Mauritius as a whole, as amended, were adopted.

The public part of the meeting rose at 12.40 p.m.